IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.254 OF 2005

Dhananjay Shamrao Patil ...Petitioner
vs.
Suvarna Dhananjay Patil & Ors. ...Respondents

Mr.Vijay Mane for the Applicant
Ms M.M.Deshmukh,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JUNE 29,2005.

P.C.:

1. This Petition takes exception to the order passed by the Courts below granting monthly maintenance to the Respondent No.1 who is the wife of the Petitioner and the Respondent No.2 who is the daughter of the Petitioner. Initially, the application for maintenance was made by the Respondent Nos.1 and 2 on 1st July 1986. By order dated 15th December 1988 the learned Magistrate granted maintenance at rate of Rs.150/- p.m. to the Respondent No.1 and Rs.100/- p.m. to the Respondent No.2. An application was made by the Respondent Nos.1 and 2 on 5th August 1996 under Section 127 of the Code of Criminal Procedure, 1973 for variation/enhancement in the maintenance amount. On a finding that income of the Petitioner was Rs.4000/- per month, by order dated 21st October 2002 the learned Judicial Magistrate, Islampur directed the Petitioner to pay maintenance at the enhanced rate of Rs.900/- from the date of order. However, without there being any application for modification made by the Petitioner, the learned Magistrate held that the Respondent No.2 was not entitled to maintenance.

2. Both the parties approached the Sessions Court by filing revision applications. By the order impugned the learned I Ad-hoc Additional Sessions Judge, Islampur held that the Respondent No.1 was entitled to maintenance at the rate of Rs.500/-p.m. from 5th August 1996 i.e. the date of application till 20th April 1999 and at the rate of Rs.750/- p.m. from 21st April 1999. The learned Sessions Judge restored the order passed in favour of the Respondent No.2 by directing the Petitioner to pay maintenance to the Respondent No.2 at the rate of Rs.500/- p.m. from the date of application i.e. 5th August 1996 till the date on which the Respondent No.2 attains majority.

3. Considering the finding recorded by the learned Magistrate that income of the Petitioner was Rs.4000/- p.m., I find no fault with the view taken by the I Ad-hoc Additional Sessions Judge, Islampur. Considering the evidence on record, the learned I Ad-hoc Additional Sessions Judge has come to the conclusion that the average of monthly income of the Petitioner is Rs.4000/- p.m. Considering the said finding regarding income of the Petitioner which cannot be interfered with under Article 227 of the Constitution of India, I find the maintenance amount fixed by the learned I Ad-hoc Additional Sessions Judge is a reasonable.

4. There is no merit in the Petition. Petition is rejected.

JUDGE